

## PATENT COOPERATION TREATY

PCT

## NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

United States Patent and Trademark  
Office  
(Box PCT)  
Crystal Plaza 2  
Washington, DC 20231  
ÉTATS-UNIS D'AMÉRIQUE

in its capacity as elected Office

<b>Date of mailing (day/month/year)</b> 18 November 1998 (18.11.98)	
<b>International application No.</b> PCT/US98/06854	<b>Applicant's or agent's file reference</b> 42716/PCT
<b>International filing date (day/month/year)</b> 03 April 1998 (03.04.98)	<b>Priority date (day/month/year)</b> 04 April 1997 (04.04.97)
<b>Applicant</b> BOAL, Dilip, K. et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:

03 November 1998 (03.11.98)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was  
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No.: (41-22) 740.14.35</p>	<p>Authorized officer Yolaine CUSSAC</p> <p>Telephone No.: (41-22) 338.83.38</p>
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REC'D 10 MAY 1999

WIPO PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference D-42716-01		FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US98/06854	International filing date (day/month/year) 03/04/1998	Priority date (day/month/year) 04/04/1997	
International Patent Classification (IPC) or national classification and IPC B65D75/00			
Applicant CRYOVAC INCORPORATED et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 6 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☒ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand  03/11/1998	Date of completion of this report  06.05.99
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. (+49-89) 2399-0 Tx: 523656 epmu d Fax: (+49-89) 2399-4465	Authorized officer  Felgenhauer, H-P  Telephone No. (+49-89) 2399 2618  

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US98/06854

## I. Basis of the report

1. This report has been drawn on the basis of (*substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.*):

### Description, pages:

1-29 as originally filed

### Claims, No.:

1-23 as originally filed

### Drawings, sheets:

1/6-6/6 as originally filed

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

4. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US98/06854

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims 1 - 23
	No: Claims
Inventive step (IS)	Yes: Claims 21, 22
	No: Claims 1 - 20, 23
Industrial applicability (IA)	Yes: Claims 1 - 23
	No: Claims

**2. Citations and explanations**

**see separate sheet**

**VII. Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/US98/06854

To section V

1. The following documents are considered:  
D1.....GB-A-2 291 402  
D2.....WO-A-96 00688.
2. The application does not meet the requirements of Article 84 EPC, because claims 1, 2 and 14 are not clear as indicated in section VIII.
3. Furthermore as indicated in connection with the lack of clarity in section VIII, paragraphs 1.1 and 1.2 , insofar as the present text can be understood, the subject-matters of claims 1 and 14 do not involve an inventive step, and therefore do not satisfy the criterion set forth in Article 33(3) PCT.
4. An independent product and method claim clarified as indicated in section VIII should satisfy the requirements of Article 33 (2) and (3) PCT since none of the available documents gives an indication leading to a patch bag having only one seal extending through the sides of the bag as well as the patch(es) such that - under the conditions/parameters to be defined - the seal has the desired strength as e.g. defined in claim 2.
5. The additional features of claims 3 - 13 do not define the parameters required to clearly define the subject-matter of claim 1 or claim 2. Since they furthermore relate to properties coming, depending on circumstances, within regular design practice they cannot be considered as satisfying the requirement of Article 33 (3) PCT. This applies correspondingly with regard to claims 15 - 20 and 23.
6. The process parameters defined within claims 21, 22 are, within the process according to claim 14, not suggested by the prior art such that, in combination (due to reasons of clarity, cf. section VIII), claims 21, 22 should satisfy the requirement of Article 33 (2) and (3) PCT.

To section VII

- 1.1 The independent claims have not been properly cast in the two-part form (Rule

6.3 (b) PCT), starting e.g. from D1.

- 1.2 Reference signs in parentheses should have been inserted in the claims to increase their intelligibility, Rule 6.2(b) PCT. This applies to both the preamble and characterising portion.
- 1.3 To meet the requirements of Rule 5.1(a)(ii) PCT, the documents D1 and D2 should have been identified in the description and the relevant background art disclosed therein should have been briefly discussed.
- 1.5 The units inch, psi, °F, mils expressed on pages 1 - 6, 16, 17, 20, 22, 26 and the claims do not meet the requirements of Rule 10.1 (a, b) PCT and should have been replaced by the appropriate SI units. The present expressions should, however, have been retained in parentheses after the replacement expressions.
- 1.7 Within the figures reference numerals (cf. e.g. the figures as filed with the application) are missing.

To section VIII

- 1.1 Claim 1 is not clear (Article 6 PCT) since it is not clearly indicated under which conditions (e.g. material of the bag and patches; parameters of heat sealing etc; cf. claims 21, 22) the only seal is provided on the end seal bag. Cf. D1, page 2, line 25 - page 3, line 2, where it is indicated that "sealing by passing heat through one or more patches is undesirable because such seals are not as strong as seals made through the bag alone".

Thus a clear definition of the subject-matter of claim 1, and also to distinguish claim 1 clearly from the prior art attempt disclosed in D1, requires that the parameters which - contrary to the known approach - make it possible that the only seal provided, which goes through the patch(es) as well as both sides of the bag, has the required strength (e.g. as defined in claim 2).

Definition of these parameters is also required in order that the problem (cf. page 1, lines 21 - 25) is solved. For this problem being solved it furthermore is required

that within claim 1 the strength of the seal is defined as it is the case for claim 2 (cf. also page 1, lines 29 - 32).

- 1.2 Without the clear definition referred to above the subject-matter of claim 1 needs to be considered as being obvious in view of the (unsuccessful) approach disclosed in D1, since the teaching of present claim 1 essentially does not go beyond the description of the unsuccessful attempt in D1 (page 2, line 29 - page 3, line 2). This applies for corresponding reasons with regard to claims 2 and 14.
- 1.3 Claims 2 and 14 are unclear for reasons corresponding to the ones given with respect to claim 1 and furthermore since, contrary to claim 1, the essential feature is missing according to which the seal referred to is the only one (cf. page 1, lines 21 - 25; page 2, lines 6, 7).
- 1.4 Claim 14 furthermore is unclear since contrary to the subject-matter of claim 1 and of claim 2 essential material properties are missing, according to which the tubular bag film as well as the patch film are heat-shrinkable.
- 1.5 The additional features of claim 15: provision of a first and a second sealing bar as means for heating, appear as being essential for the process according to claim 14 and are thus missing in this claim.
2. The general statement in the description at page 29, lines 23 - 27 (reference to "principles" of the invention) is not clear, and when used to interpret the claims renders them also unclear, contrary to Article 6 PCT.

# INTERNATIONAL SEARCH REPORT

International Application No  
PCT/US 98/06854

**A. CLASSIFICATION OF SUBJECT MATTER**  
IPC 6 B65D75/00 B65D75/26

According to International Patent Classification (IPC) or to both national classification and IPC

**B. FIELDS SEARCHED**

Minimum documentation searched (classification system followed by classification symbols)  
IPC 6 B65D

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

**C. DOCUMENTS CONSIDERED TO BE RELEVANT**

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	GB 2 291 402 A (GRACE W R & CO) 24 January 1996 see abstract; claims; figures see page 38, line 26 - page 39, line 8 see page 23, line 25 - page 25, line 12 see page 37, line 24 - page 38, line 19 ---	1-23
A	WO 96 00688 A (GRACE W R & CO) 11 January 1996 see page 19, line 1 - page 20, line 7; claims; figures -----	1-14

☐ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

\* Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance  
"E" earlier document but published on or after the international filing date  
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)  
"O" document referring to an oral disclosure, use, exhibition or other means  
"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention  
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone  
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.  
"&" document member of the same patent family

Date of the actual completion of the international search

14 August 1998

Date of mailing of the international search report

24/08/1998

Name and mailing address of the ISA  
European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

SERRANO GALARRAGA, J

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 98/06854

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
GB 2291402 A	24-01-1996	US 5545419 A	13-08-1996
		AU 2509395 A	01-02-1996
		CA 2154240 A	22-01-1996
		DE 19527800 A	04-04-1996
		FR 2722763 A	26-01-1996
WO 9600688 A	11-01-1996	AU 2952295 A	25-01-1996
		BR 9508136 A	25-11-1997
		CA 2193982 A	11-01-1996
		EP 0766635 A	09-04-1997

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>42716/PCT</b>	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. <b>PCT/US 98/ 06854</b>	International filing date (day/month/year) <b>03/04/1998</b>	(Earliest) Priority Date (day/month/year) <b>04/04/1997</b>
Applicant <b>CRYOVAC INCORPORATED et al.</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 03 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. ☐ Certain claims were found unsearchable (see Box I).

2. ☐ Unity of invention is lacking (see Box II).

3. ☐ The international application contains disclosure of a **nucleotide and/or amino acid sequence listing** and the international search was carried out on the basis of the sequence listing

☐ filed with the international application.

☐ furnished by the applicant separately from the international application,

☐ but not accompanied by a statement to the effect that it did not include matter going beyond the disclosure in the international application as filed.

☐ Transcribed by this Authority

4. With regard to the title, ☒ the text is approved as submitted by the applicant

☐ the text has been established by this Authority to read as follows:

5. With regard to the abstract,

☐ the text is approved as submitted by the applicant

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this International Search Report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is:

Figure No. 1 ☒ as suggested by the applicant.

☐ None of the figures.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

# INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 98/06854

## Box III TEXT OF THE ABSTRACT (Continuation of item 5 of the first sheet)

Modifications in the following lines of the text:

3. ...patch bag (14)... ...film (18)...
4. ...heat-shrinkable patch (22)...
5. ...seal (26)...

## INTERNATIONAL SEARCH REPORT

International Application No

US 98/06854

A. CLASSIFICATION OF SUBJECT MATTER  
 IPC 6 B65D75/00 B65D75/26

According to International Patent Classification (IPC) or to both national classification and IPC

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Minimum documentation searched (classification system followed by classification symbols)

IPC 6 B65D

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

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"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

14 August 1998

Date of mailing of the international search report

24/08/1998

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
 NL - 2280 HV Rijswijk  
 Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
 Fax: (+31-70) 340-3016

Authorized officer

SERRANO GALARRAGA, J

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

/US 98/06854

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
GB 2291402	A	24-01-1996	US 5545419 A	13-08-1996
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			CA 2154240 A	22-01-1996
			DE 19527800 A	04-04-1996
			FR 2722763 A	26-01-1996
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WO 9600688	A	11-01-1996	AU 2952295 A	25-01-1996
			BR 9508136 A	25-11-1997
			CA 2193982 A	11-01-1996
			EP 0766635 A	09-04-1997
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